IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 98 of 2000

Date of decision: 12.7.2007

State of H.P. **…Appellant.**

Versus

Medh Ram and others **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the appellant : Mr. Ashok Chaudhary, Addl. A.G.

For the respondents : Mr.G.D. Verma, Sr. Advocate, with Mr. B.C. Verma, Advocate.

Surjit Singh, Judge (Oral)

Respondents Medh Ram, Chain Singh, Joginder Singh and Om Parkash were sent up for trial for offences punishable under Sections 379 and 341 of the Indian Penal Code and Section 33 of the Indian Forest Act for allegedly felling four 'Chil' trees from a demarcated protected forest and stealing the timber of those trees and then getting the same converted into planks and poles. The trial Court acquitted all the four respondents. State, feeling aggrieved by the judgment of acquittal, filed this appeal.

2. Prosecution case, as per record of the trial Court, is like this. On 2.2.1995 Forest Guard Sukh Dev Sharma (PW-3) went to the demarcated protected forest, in question, and noticed that one 'Chil' tree had been felled by respondent Medh Ram. He issued damage report. On 3.2.1995, when a Police Officer, namely PW-10 Anant Ram, ASI went to

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Whether reporters of the local papers may be allowed to see the judgment?

the forest in connection with the investigation of another case, registered vide FIR No. 23 / 1995 against one Kishan Singh, Sukh Dev Sharma (PW-3) reported the matter to him. ASI Anant Ram (PW-10) reduced the report, made by PW-3 Sukh Dev Sharma, into writing in the form of latter's statement under Section 154 of the Code of Criminal Procedure and sent the same to the Police Station for formal registration of the case. Soon after the making of the report by PW-3 Sukh Dev Sharma to PW-10 Anant Ram, Medh Ram was arrested and interrogated. He made a disclosure statement that he could lead to the spot where he had kept the logs extracted from the felled tree. He took the police to a place near a temple and got recovered four logs of different sizes. Those were taken into possession and given on 'Spurdari' to Forest Guard Sukh Dev Sharma. On 6.2.1995 respondent Chain Singh allegedly made statement that he had kept on the roof of his house timber extracted from three other 'Chil' trees and could get the same recovered. That statement was also got recorded and pursuant thereto some poles and planks were recovered and taken into possession vide memo. Ext. PW-2/B and given on 'Spurdari' to Sukh Dev Sharma, Forest Guard. Chain Singh, respondent allegedly got the logs of the felled trees converted into planks and poles at the saw-mill of respondent Joginder Singh, but there was no entry in the register maintained by respondent Joginder Singh about the conversion of any logs into planks and poles at the instance of respondent Medh Ram or Chain Singh. Against the fourth respondent the allegation was that he had assisted respondents Medh Ram and Chain Singh in felling the trees.

3. I have heard the learned Additional Advocate General and the learned counsel for the respondents. Record has also been perused.

4. Case of the prosecution is that the trees had been felled from a demarcated protected forest. The respondents took the plea that the trees were felled by them from their private land, which is not far away

from the demarcated protected forest. The sites where the trees had been felled, are alleged to have been demarcated by Kanungo Paras Ram (PW-5) and Patwari Gobind Ram (PW-9) during the course of investigation. These witnesses proved the reports Ext. PW-5/A and Ext. PW-8/A prepared by them. In the cross-examination both the witnesses admitted that they did not have the record of the demarcated protected forest with them at the time of the demarcation. They also admitted that they did not fix the boundary of the demarcated protected forest and the adjoining private lands. They admitted that the demarcated protected forest is surrounded by private lands on all the four sides. PW-9 Gobind Ram, Patwari went to the extent of admitting that in the absence of record of the Forest Department, it was not possible to give demarcation. Medh Ram in his alleged disclosure statement Ext. PW-1/B claimed that he had felled the tree from his own 'Ghasni' land and not from the demarcated protected forest. Now, when a specific plea has been raised that the felling had been done on private land and not on the Government forest land, it was incumbent upon the investigating agency to have got the land demarcated and the boundary of the Government forest and the private land delineated properly in accordance with the instructions issued by the Financial Commissioner for the demarcation of boundaries of Government land and private lands. This having not been done, it cannot be said that the trees, in question, were felled from the Government land.

5. Even though respondent Joginder Singh is alleged to have converted the timber into planks and poles without making any entry in the register Ext. P-1, no evidence has been led by the prosecution to show that the conversion had taken place at the saw-mill of respondent Joginder Singh.

6. Nobody has made any accusation against the fourth respondent Om Parkash. Not only that nobody has accused him of his

involvement in the alleged crime, in his deposition, but even nobody has named him or even made remote reference to him in his deposition.

7. In view of the above stated position, it cannot be said that the finding of ‘not guilty’ returned in favour of the respondents by the trial Court is perverse or that the view taken by the trial Court is not possible from the evidence on record. Consequently the appeal is dismissed.

July 12, 2007 (BC) **(Surjit Singh)**
Judge